

Federal Communications Commission

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158(d)(1) or § 1.1114 of this subpart shall file their applications in the appropriate location as set forth in the rules for the service for which they are applying, except that request for waiver accompanied by a tentative fee payment should be filed at the Commission's lockbox bank at the address for the appropriate service set forth in §§ 1.1102 through 1.1107.

(b) Except as provided for in paragraph (c) of this section, all materials must be submitted as one package. The Commission will not take responsibility for matching fees, forms and applications submitted at different times or locations. Materials submitted at other than the location and address required by § 0.401(b) and paragraph (a) of this section will be returned to the applicant or filer.

(c) Fees for applications and other filings pertaining to the Wireless Radio Services that are submitted electronically via ULS may be paid electronically or sent to the Commission's lock box bank manually. When paying manually, applicants must include the application file number (assigned by the ULS electronic filing system on FCC Form 159) and submit such number with the payment in order for the Commission to verify that the payment was made. Manual payments must be received no later than ten (10) days after receipt of the application on ULS or the application will be dismissed. Payment received more than ten (10) days after electronic filing of an application on a Bureau/Office electronic filing system (e.g., ULS) will be forfeited (see §§ 1.034 and 1.1109.)

(d) Fees for applications and other filings pertaining to the Multichannel Video and Cable Television Service (MVCTS) and the Cable Television Relay Service (CARS) that are submitted electronically via the Cable Operations and Licensing System (COALS) may be paid electronically or sent to the Commission's lock box bank manually. When paying manually, applicants must include the FCC Form 159 generated by COALS (pre-filled with the transaction confirmation number) and completed with the necessary additional payment information to allow the Commission to verify that payment was made. Manual pay-

ments must be received no later than ten (10) days after receipt of the application or filing in COALS or the application or filing will be dismissed.

[55 FR 19171, May 8, 1990. Redesignated at 59 FR 30998, June 16, 1994, as amended at 59 FR 30999, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 63 FR 68941, Dec. 14, 1998; 65 FR 49762, Aug. 15, 2000; 67 FR 67337, Nov. 5, 2002; 68 FR 27001, May 19, 2003]

EFFECTIVE DATE NOTE: At 68 FR 27001, May 19, 2003, § 1.1111 was amended by adding paragraph (d). This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 1.1112 Conditionality of Commission or staff authorizations.

(a) Any instrument of authorization granted by the Commission, or by its staff under delegated authority, will be conditioned upon final payment of the applicable fee and timely payment of bills issued by the Commission. As applied to checks, bank drafts and money orders, final payment shall mean receipt by the Treasury of funds cleared by the financial institution on which the check, bank draft or money order is drawn.

(1) If, prior to a grant of an instrument of authorization, the Commission is notified that final payment has not been made, the application or filing will be:

(i) Dismissed and returned to the applicant;

(ii) Shall lose its place in the processing line;

(iii) And will not be accorded *nunc pro tunc* treatment if resubmitted after the relevant filing deadline.

(2) If, subsequent to a grant of an instrument of authorization, the Commission is notified that final payment has not been made, the Commission will:

(i) Automatically rescind that instrument of authorization for failure to meet the condition imposed by this subsection; and

(ii) Notify the grantee of this action; and

(iii) Not permit *nunc pro tunc* treatment for the resubmission of the application or filing if the relevant deadline has expired.

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(3) Upon receipt of a notification of rescission of the authorization, the grantee will immediately cease operations initiated pursuant to the authorization.

(b) In those instances where the Commission has granted a request for deferred payment of a fee or issued a bill payable at a future date, further processing of the application or filing, or the grant of authority, shall be conditioned upon final payment of the fee, plus other required payments for late payments, by the date prescribed by the deferral decision or bill. Failure to comply with the terms of the deferral decision or bill shall result in the automatic dismissal of the submission or rescission of the Commission authorization for failure to meet the condition imposed by this subpart. The Commission reserves the right to return payments received after the date established on the bill and exercise the conditions attached to the application. The Commission shall:

(1) Notify the grantee that the authorization has been rescinded;

(i) Upon such notification, the grantee will immediately cease operations initiated pursuant to the authorization.

(2) Not permit *nunc pro tunc* treatment to applicants who attempt to refile after the original deadline for the underlying submission.

(c) Where the procedures outlined in paragraphs (a) and (b) of this section would not provide a meaningful incentive to pay a fee that is due or would not be a meaningful sanction for failure to pay such a fee, in the alternative to those procedures, the Commission may, in its discretion, withhold processing and/or grant of any other application or filing made by a person or organization who has failed to make full payment of any fee due under this subpart.

(1) Before taking such action, the staff will make a written request for the fee, together with any penalties that may be due under this subpart. Such request shall inform the applicant/filer that failure to pay will result in the Commission's withholding action on any other application or request filed by the applicant. The staff shall also inform the applicant of the

procedures for seeking Commission review of the staff's fee determination.

(2) If, after final determination that the fee is due, the applicant fails to pay the fee in a timely manner, the staff may terminate the processing and/or withhold a grant of any other application or filing pending or later filed by the applicant, until the matter is resolved.

[52 FR 5289, Feb. 20, 1987, as amended at 55 FR 19171, May 8, 1990. Redesignated at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995]

§ 1.1113 Return or refund of charges.

(a) All refunds will be issued to the payer named in the appropriate block of the FCC Form 159. The full amount of any fee submitted will be returned or refunded, as appropriate, under the authority granted at § 0.231.

(1) When no fee is required for the application or other filing. (see § 1.1109).

(2) When the fee processing staff or bureau/office determines that an insufficient fee has been submitted within 30 calendar days of receipt of the application or filing and the application or filing is dismissed.

(3) When the application is filed by an applicant who cannot fulfill a prescribed age requirement.

(4) When the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty would render useless a grant or other positive disposition of the application.

(5) When a waiver is granted in accordance with this subpart.

NOTE: Payments in excess of an application fee will be refunded only if the overpayment is \$10 or more.

(6) When an application for new or modified facilities is not timely filed in accordance with the filing window as established by the Commission in a public notice specifying the earliest and latest dates for filing such applications.

(b) Comparative hearings are no longer required.

(c) Applicants in the Mass Media Services for first-come, first-served construction permits will be entitled to a refund of the fee, if, within fifteen days of the issuance of a Public Notice